

## **MINUTES**

### **MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON EDUCATION AND CULTURAL RESOURCES**

**Call to Order:** By **CHAIRMAN BILL GLASER**, on February 12, 2001 at 3:00 P.M., in Room 405 Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Bill Glaser, Chairman (R)  
Sen. Jack Wells, Vice Chairman (R)  
Sen. John C. Bohlinger (R)  
Sen. Edward Butcher (R)  
Sen. John Cobb (R)  
Sen. Jon Ellingson (D)  
Sen. Jim Elliott (D)  
Sen. Alvin Ellis Jr. (R)  
Sen. Sam Kitzenberg (R)  
Sen. Don Ryan (D)  
Sen. Debbie Shea (D)  
Sen. Mike Sprague (R)  
Sen. Mignon Waterman (D)

**Members Excused:** Sen. Dale Berry (R)

**Members Absent:** None.

**Staff Present:** Linda Ashworth, Committee Secretary  
Eddy McClure, Legislative Branch

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 404, 2/8/2001; SB 423,  
2/8/2001; SB 425, 2/8/2001  
Executive Action: SB 425, SB 423 (Discussion),  
SB 404 (Discussion)  
SB 94, SB 65

#### **HEARING ON SB 404**

**Sponsor:** \_\_\_\_\_ **SEN. EVE FRANKLIN, SD 21, Great Falls**

**Proponents:**        **Jaybe Floyd, Self, Great Falls**  
                             **SEN. DON RYAN, SD 22, Great Falls**

**Opponents:**        **Lance Melton, Montana School Boards Association**

**Opening Statement by Sponsor:**

**SEN. EVE FRANKLIN** opened on SB 404. She stated the bill would eliminate the non-voting trustee provision and would allow a qualified elector, residing in a unified school district, to vote in the trustee election for the high school trustees. **SEN. FRANKLIN** submitted additional testimony relating to Montana Law, **EXHIBIT**(eds35a01).

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**Proponents' Testimony:**

**Jaybe Floyd** avowed support for SB 404 and submitted written testimony, **EXHIBIT**(eds35a02).

**SEN. DON RYAN, SD 22, Great Falls** rose in support of SB 404. He clarified the background that inspired the proposed legislation. **SEN. RYAN** reiterated that SB 404 would allow the vote to follow the tax dollar.

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**Opponents' Testimony:**

**Lance Melton, Montana School Boards Association**, presented opposition for SB 404. He stated that he was also speaking on behalf of the **Montana Rural Education Association**. He acknowledged that there was a problem in the existing law in terms of representation, as referenced by the sponsor. He maintained that affording over-representation on the high school board would not solve the problem. Taxable evaluation should not be the basis on which trustees are elected. The inequity would lie in the taxable evaluation. The people in the affected areas would receive a greater right of representation than others in the district. **Mr. Melton** mentioned that this bill would have unintended consequences.

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**Informational Testimony:**        **None**

**Questions from Committee Members and Responses:**

**SEN. ALVIN ELLIS** wondered if the area in question could consolidate with the Belt district. **Lance Melton** explained that the situation would develop when a small elementary district would cease to exist and the land would be transferred to another district.

**SEN. ELLIS** asked **Jaybe Floyd** if her land was consolidated with the Belt district for elementary purposes and wondered if the Belt district had a trustee on the Great Falls School Board. **Mrs. Floyd** asserted that two different districts were involved and her taxes were split between the Belt and Great Falls districts. She explained that the trustees in Belt serve both the elementary and high school districts in Belt.

**SEN. ELLIS** indicated that **Mrs. Floyd's** children attend the Belt Elementary School and that Belt also has a high school. **Mrs. Floyd** clarified that they attend the Belt Elementary School but are in the Great Falls High School District.

**SEN. MIGNON WATERMAN** wondered how many districts SB 404 would be affected. **Lance Melton** responded that several districts have non-district trustees from outlying elementary districts.

**SEN. WATERMAN** suggested that the problem could be solved by transferring their property into the high school district.

**SEN. DEBBIE SHEA** elaborated on the situation in Ramsey where the students attend Butte High School, which allows Ramsey to have an elected trustee on the Butte board. **Mr. Melton** added that Ramsey's taxable evaluation is similar, on a per trustee basis, to the area in Butte already represented by trustees.

**SEN. ELLIS** wondered if the sponsor had explored using a smaller percentage. **SEN. FRANKLIN** claimed that she had explored a formula suggested by **Lance Melton** but felt that it would lead to special interest legislation.

**SEN. JACK WELLS** asked **Jaybe Floyd** if she was represented by a non-voting trustee on the Great Falls board. **Mrs. Floyd** was unaware of such a trustee.

**SEN. DON RYAN** stated that the Great Falls School Board did not include a non-voting trustee. The original draft was slated to create special legislation that would allow the vote to follow the student's high school. With this formula **Mrs. Floyd** would be allowed to vote for the people that followed her money. **SEN. RYAN** felt that the right to vote should not depend on the amount of taxes one pays.

**SEN. JIM ELLIOT** asked for clarification to the purpose of a non-voting trustee. **SEN. FRANKLIN** felt it was a consensus move to provide a consulting member to the board.

**SEN. ELLIOT** asked **Jaybe Floyd** if she would want to vote for a non-voting trustee. **Mrs. Floyd** stated that she would want to vote for a voting trustee.

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**Closing by Sponsor:**

**SEN. FRANKLIN** closed on SB 404. She repeated that taxpayers, such as **Mrs. Floyd**, would like to be able to vote for a voting trustee. At present, **Mrs. Floyd** does not have a vote on policy making decisions in the high school district where her high school levied tax money is paid. **SEN. FRANKLIN** felt that the notion of determining votes based on taxable values is unfair.

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**HEARING ON SB 423**

**Sponsor:** **SEN. ALVIN ELLIS, SD 12, Red Lodge**

**Proponents:** **Rodney Garcia, Southside Neighborhood Task Force, Billings**  
**Jim Hartung, Central Cherry Park Neighborhood Task Force, Billings**  
**Scott Crichton, American Civil Liberties Union**

**Opponents:** **None**

**Opening Statement by Sponsor:**

**SEN. ALVIN ELLIS** opened on SB 423. He narrated that the bill was suggested by several citizens of Billings. Currently statutes exist that would allow trustees to establish single member districts, within the city unit, to address any problems that might be created by ethnicity or race of a voting population. Currently in Billings, there are no school board members that represent the north side, the south side, or the Heights. SB 423 would give citizens an avenue to present a petition to the board of trustees. The petition would request the creation of a single-member trustee district. The proposal would then be submitted to the qualified electors of the district.

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**Proponents' Testimony:**

**Rodney Garcia, Southside Neighborhood Task Force**, rose in support of SB 423. **Mr. Garcia** explained that money is being funneled from the intercity schools in Billings to schools on the west side of town. He contended that the intercity schools have no one representing them on the school board. He also stated that members of the **South Side Neighborhood Task Force** had offered assistance to the school board in creating single member districts.

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**Jim Hartung, Central Cherry Park Neighborhood Task Force**, explained the importance of having a school in his neighborhood. He echoed that a letter was presented to the school board which the board ignored. He exhibited a map of Billings which showed the location of schools in relation to the school board members' homes. He asked that voters, taxpayers and parents work to make the school board more representative of the city.

**Scott Crichton, American Civil Liberties Union**, also spoke as a constituent of **SEN. ELLIS** in his support of SB 423. **Mr. Crichton** professed that SB 404 would be a timely piece of legislation. He shared his experiences trying to encourage parental involvement in the preservation of schools. Losing a school would have a devastating impact on the community as well as real estate. **Mr. Crichton** argued that there is nothing more fundamental than access to the schools and the decision-making process within those schools. The bill would also address minority populations that exist and the issue of their exclusion from participation in school issues.

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**Opponents' Testimony:**       None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

**SEN. ED BUTCHER** asked **Mr. Hartung** if he envisioned nominees from out of the district. **Mr. Hartung** envisioned a single member district with elections in that district.

**SEN. BUTCHER** wondered why it would be different than an election for county commissioners. **Mr. Hartung** stated the elections would

be comparable to city council elections where the city councilmen would be elected by a specific ward.

**SEN. RYAN** referred to discussion on SB 404 which would allow a person's vote to follow their money and wondered if the bills were similar in their goals. **Scott Crichton** was unaware of the previous bill prior to this hearing and indicated that he was not informed enough to give an answer.

**SEN. RYAN** purported that it was difficult to encourage people to run for school board positions in Great Falls and wondered if this would be the case in Billings. **SEN. RYAN** asked **Mr. Garcia** if he could guarantee that someone would run for the school board positions. **Rodney Garcia** informed the committee that he had run for a position on the Billings School Board but had not been elected. He believed that his area was outnumbered in population votes and because the district is low income he could not raise the funds needed to outdo the westside in the campaigns.

**SEN. WELLS** inquired about the possibility of the electors voting in favor of forming a new district. **SEN. ELLIS** stated there would be no specific insurance that it would or would not happen. He explained that if Billings had seven school board members then they would have to divide the population into seven districts.

**SEN. WATERMAN** wondered when the election would be held. **SEN. ELLIS** explained that the language in the bill should be tightened to include a certain time period and he would have no opposition to the suggestion.

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**Closing by Sponsor:**

**SEN. ELLIS** closed on SB 423. He reminded the committee that most cities and towns have wards that elect councilmen to city government. He felt the bill would give citizens the opportunity to formulate the same type of government for the local school board. He declared the most basic freedoms are freedom of speech, freedom to own property and the ability to govern the education of our children.

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**HEARING ON SB 425**

**Sponsor:** **SEN. MIGNON WATERMAN, SD 26, Helena**

**Proponents:**      **Arlene Parisot, Director of Work Force  
Development, Commission of Higher Education  
Spencer Sartorius, Office of Public Instruction**

**Opponents:**      None

**Opening Statement by Sponsor:**

**SEN. WATERMAN** opened on SB 425 clarifying that it was a requested committee bill which would allow the designation of the Board of Regents as the eligible agent for receiving Perkins Grant funds. It would establish the creation of a state planning committee that would consist of six people, three from the K-12 board and three from the post-secondary board. Two members from each board must be educators. The remaining person could from the community or business arena. The bill would also repeal the sunset and would become effective on passage.

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**Proponents' Testimony:**

**Arlene Parisot, Director of Work Force Development, Commission of Higher Education**, voiced strong support for SB 425. **Ms. Parisot** affirmed that the creation of a planning committee would strengthen the collaborative efforts between the **Office of Public Instruction** and the **Commissioner of Higher Education**.

**Spencer Sartorius, Office of Public Instruction**, avowed support for SB 425. He explained that he recently became the **Director of the Career, Technical, and Adult Education Division**. **Mr. Sartorius** voiced enthusiasm in working with the **Office of the Commissioner of Higher Education**. He promised the committee a cooperative, mutually beneficial working relationship.

**Opponents' Testimony:**      None

**Informational Testimony:**      None

**Questions from Committee Members and Responses:**

**SEN. SHEA** thanked **Mr. Sartorius** for the positive comments and his willingness to work collectively for the common good.

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**Closing by Sponsor:**

**SEN. WATERMAN** closed on SB 425.

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**EXECUTIVE ACTION ON SB 425**

**Motion/Vote:** **SEN. ELLIS** moved that **SB 425 DO PASS**. Motion carried unanimously.

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**DISCUSSION ON SB 423**

**SEN. WATERMAN** asked for an amendment on SB 423 which would tighten up the language in reference to the time frame of the election.

**CHAIRMAN GLASER** pointed out that on page 3 of the bill the term, "single member trustee districts" was not clear. He explained that the bill refers to a singular "district" as well as plural "districts". He wondered if **SEN. ELLIS** was referring to a single district or a blend of both districts. **SEN. ELLIS** stated his intention that the bill would work with both.

**SEN. RYAN** asked how the bill would work regarding property value. **SEN. ELLIS** replied that property value only applies to a district with a rural representation on the high school board and therefore they would receive a proportionate number of representative in accordance to property value. **SEN. ELLIS** clarified that SB 423 specifies small units and various rural units could not be combined into one.

**SEN. BUTCHER** stated his assumption that the bill would be based on merging small country schools into a general population.

**SEN. WATERMAN** presented her belief that an outlying elementary district that feeds into a high school would be a single member district. She cited the example of East Helena which has its own elementary district with its own elementary trustees in that district. East Helena has a high school representative that serves and votes on the Helena School Board.

**SEN. RYAN** wondered if the East Helena trustee represented a smaller proportion of taxpayers than the five Helena High School trustees that represent the entire community of Helena. **SEN. WATERMAN** explained that the disparity exists because the number of trustees in Helena are representing property value, whereas the trustee from East Helena represents the entire population.



**Eddye McClure** clarified the difference between SB 423 and SB 404. SB 404 would protect outlying areas that lie in two districts, where the property owners do not want to transfer their property into a district with higher property values. **SEN. WATERMAN** responded that the situation would have more to do with property values than where the children are attending school.

**SEN. ELLIS** narrated that he would tighten up the provisions in regards to the occurrence of the elections. **CHAIRMAN GLASER** asked **SEN. ELLIS** to meet with **Eddye McClure** to develop amendments that would clarify issues in the bill.

**SEN. SPRAGUE** suggested he insert the words, "next available election". **SEN. BUTCHER** wondered if there would be any interest in having an election that would determine the representatives from each district.

**CHAIRMAN GLASER** cited a law suit regarding this issue in Big Horn County. The county settled by allowing single member districts to represent each area. **SEN. ELLIS** felt the people that sit on a board should represent a certain district, not the community at large.

**SEN. SPRAGUE** proposed that an amendment address the issue of the next election as being the next school election. **Eddye McClure** suggested that in the middle of Line 17 she could insert "the board shall call an election on the question creating a single member trustee district at the next election held under 20-20-105".

**SEN. RYAN** asked if this would be contingent on obtaining a petition each time. He wondered how a small district would be divided to pick representation since every district would be affected by SB 423. **SEN. ELLIS** theorized this would apply to any community that would that felt it had a problem in this area. He asserted the bill would not dictate to school boards how their elections would be held because local control should prevail.

**SEN. RYAN** wondered if people need to live in the area they would be representing. **SEN. ELLIS** stated that they would have to live in the area. **SEN. WATERMAN** wondered if the bill would clarify that a trustee must be a resident of that district. **SEN. ELLIS** felt it should be provided for in the bill.

**SEN. GLASER** asked for **SEN. ELLIS'** suggestion on how all the different issues could be rectified. **SEN. ELLIS** stated that he would work with **Eddye McClure** and complete this by the next committee meeting.

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**DISCUSSION ON SB 404**

**SEN. WATERMAN** wondered why people from Belt who send their children to Great Falls for high school don't transfer their property into the Great Falls district. **SEN. RYAN** clarified that the district has always been apart of the Great Falls High School District. It used to have its own elementary district and when they decided to close the school the law allowed them to choose which elementary district they wanted to join. Since these people live on the road to Highwood and Belt, they chose to move to the rural elementary school district.

**SEN. WATERMAN** wondered why they would not send their children to Belt for high school. She also stated that the solution to the problem would be to align the boundaries into some sort of logical order.

**SEN. RYAN** argued that they did not want to add a trustee to the board. He said SB 404 would allow them to vote for the trustees in Great Falls. **SEN. WATERMAN** reiterated that this would not be a solution.

**Eddye McClure** reminded the committee that currently Great Falls has five members on the board and one non-voting member. The bill would allow the non-voting member to vote so in essence a trustee would be added. **SEN. RYAN** disagreed stating that Great Falls does not have a non-voting trustee. This bill would allow the Belt people to vote for the trustees in Great Falls.

**Ms. McClure** claimed the outlying district would get another trustee that would be a voting member on the board. **SEN. RYAN** surmised that **SEN. FRANKLIN** may withdraw the bill because that was not the intent of the bill.

**SEN. WATERMAN** reinstated her belief that the bill would allow another trustee to be added to the Great Falls School Board. **SEN. SHEA** recounted that when **Mrs. Jaybe Floyd** had testified in support of SB 404, she had stated her desire to vote for the trustees that would make the decisions on her money. **SEN. SHEA** remarked that the adding of another trustee was brought up in the committee's discussion.

**SEN. RYAN** reminded the committee that **Mrs. Floyd** currently receives a high school ballot with only the levy issues listed. She wants the trustees added to the ballot so she could vote for the people that are spending her high school tax dollars.

**CHAIRMAN GLASER** asked **SEN. RYAN** to talk to **SEN. FRANKLIN** before the next committee meeting and see what we can do with the bill. **SEN. RYAN** agreed to the request.

**EXECUTIVE ACTION ON SB 94**

**Discussion:**

**SEN. SHEA** submitted an amendment (SB009401.aem), **EXHIBIT**(eds35a03) to SB 94. **Erik Burke, Montana Education Association/Montana Federation of Teachers**, explained the amendments.

**SEN. SPRAGUE** wondered how the changes would affect the fiscal note. **CHAIRMAN GLASER** suggested the amendment would affect the fiscal note during the first year as an increase in property taxes.

**Motion:** **SEN. SHEA** moved that **SB 94 BE AMENDED (SB009401.aem)**. The motion passed unanimously.

**Motion:** **SEN. SHEA** moved that **SB 94 DO PASS AS AMENDED**.

**Discussion:**

**SEN. ELLIS** stated his support of SB 94 but mentioned his concerns regarding constitutionality. Since the entitlement is voted and will effect the caps, it is possible that it could be challenged on a constitutional basis. He stated that as long as this portion of the spending formula could be severed from the rest of the bill he would support the bill. **Eddye McClure** informed him that there was no severability clause and wondered if he would want to severe parts of the bill.

**SEN. ELLIS** wondered if the bill could stand alone from the rest of the funding formula. **Ms. McClure** stated that the funding formula was being amended. **SEN. ELLIS** articulated that he would agree to the bill as is.

**Vote:** **SEN. SHEA'S** motion that **SB 94 DO PASS AS AMENDED** carried 13-1 with Wells voting no.

**EXECUTIVE ACTION ON SB 65**

**SEN. WATERMAN** wondered if a new fiscal note had been received on SB 65. **CHAIRMAN GLASER** informed the committee that the budget director had sent a letter informing the committee that bills were not to be held in committee awaiting a revised fiscal note.

**Eddye McClure** submitted a grey bill, **EXHIBIT(eds35a04)**, which included the amendments as adopted during executive action on February 7, 2001. **Ms. McClure** explained the amendments **(SB006501.ace)**, **EXHIBIT(eds35a05)**, that were included in the bill. She questioned the cost of transportation and who would be liable for it.

**Kathy Fabiano** informed the board that the cost of transportation that the parent would be liable for would be the local share. The state would reimburse the district that would be transporting the student. Any costs that would exceed the state, county and local levy, would be absorbed by the parent under this amendment **(SB006501.ace) EXHIBIT (5)**.

**Eddye McClure** questioned whether the parent would pay tuition or both tuition and transportation costs. **Kathy Fabiano** stated that the decision would lie with the committee.

**SEN. ELLIS** felt transportation was not an issue under the title of mandatory acceptance by the other school. **SEN. WELLS** voiced concerns with "and any transportation" because it would seem like the statute would tell the districts they could now assess the parent for transportation.

**CHAIRMAN GLASER** reminded the committee that SB 65 had a **DO PASS AS AMENDED** out of the committee on February 7, 2001.

**Motion/Vote:** **SEN. ELLIS** moved **TO RECONSIDER PREVIOUS ACTION OF A DO PASS MOTION AS AMENDED ON SB 65**. Motion carried unanimously.

**Motion/Vote:** **SEN. ELLIS** moved **TO STRIKE THE WORDS, "AND ANY TRANSPORTATION"**. Motion carried unanimously.

**Eddye McClure** pointed out several changes that dealt with **SEN. RYAN'S** amendments and also clarified some editing changes.

**CHAIRMAN GLASER** asked for an opinion from **Kathy Fabiano** regarding the fiscal note. **Ms. Fabiano** explained that there would be no fiscal impact in fiscal year 2002. Adding all the numbers the state would pay \$1,851,094 for the GTB. Reducing that by the tuition costs the state currently pays, the net increases would be \$493,527 in fiscal year 2003.

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**Ms. Fabiano** explained that the reason that there would be no payment in 2002 is because tuition is paid one year in arrears.

**SEN. WELLS** explained that he had initially resisted state-placed students because of the cost, but that issue is consistent with the rest of the bill. This position would be indefensible and so he supports this issue.

**Motion/Vote: SEN. WATERMAN** moved that **SB 65 DO PASS AS AMENDED.**  
**Motion carried unanimously.**

**CHAIRMAN GLASER** suggested phasing SB 312 next year which would mean it would not impact anyone for two years. In seven years the system would be in place. **SEN. ELLIS** responded that SB 312 would have a tremendous impact for smaller districts as well as large because of their tremendous disparities.

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**ADJOURNMENT**

Adjournment: 5:05 P.M.

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SEN. BILL GLASER, Chairman

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LINDA ASHWORTH, Secretary

BG/LA